IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:21-cv-00066-MR-WCM

HMBC, INC. *doing business as*   )
American Restoration,   )
)
         Plaintiff,   )
)
         v.   )   ORDER
)
STATE FARM FIRE AND   )
CASUALTY COMPANY   )
)
         Defendant.   )
_____)

This matter is before the Court on a Motion to Dismiss filed by State

Farm Fire and Casualty ("State Farm Fire"), State Farm Mutual Automobile

Insurance Company ("State Farm Auto"), and Warren Douglas Harvey

("Harvey") (the "Motion to Dismiss," Doc. 7).

The Motion to Dismiss, which seeks the dismissal of Plaintiff's

Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure,

was filed on March 19, 2021. Doc. 7. Twenty-one (21) days later, on April 9,

2021, Plaintiff filed an Amended Complaint. Doc. 12.[1]

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[1] State Farm Auto and Harvey were named as defendants in Plaintiff's original
complaint. Doc. 1-1. State Farm Auto and Harvey are not named as defendants in
the Amended Complaint.

"A party may amend its pleading once as a matter of course within … 21 days after service of a motion under Rule 12(b)…." Fed. R. Civ. Pro. 15(a)(1)(B). Because Plaintiff has amended its complaint within the time period provided by Rule 15(a)(1)(B), the Motion to Dismiss is now moot. See Thomas v. Cumberland County Board of Education, No. 5:10-cv-552, 2011 WL 3664891, at *1 (E.D.N.C. Aug. 18, 2011) ("Because plaintiff had 'an absolute right to amend [her] complaint … and need not [have sought] leave of court to do so' her motion to amend must be ALLOWED. Defendant's motion to dismiss the original complaint is DENIED AS MOOT, without prejudice to renewal.") (quoting Galustian v. Peter, 591 F.3d 724, 730 (4th Cir. 2010) (modifications in Thomas)).

IT IS THEREFORE ORDERED that the Motion to Dismiss filed by State Farm Fire and Casualty, State Farm Mutual Automobile Insurance Company, and Warren Douglas Harvey (Doc. 7) is **DENIED AS MOOT.**

Signed: April 12, 2021

W. Carleton Metcalf
United States Magistrate Judge